



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUL 14 2009

Mike McCauley, Treasurer  
Bill Dew for Congress  
Post Office Box 27762  
Salt Lake City, Utah 84127

RE: MUR 6140  
Dew for Congress, and Mike  
McCauley, in his official capacity  
as treasurer

Dear Mr. McCauley:

On December 9, 2008, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on July 2, 2009, voted to dismiss this matter as to Dew for Congress, and you, in your official capacity as treasurer, and has closed the file. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information. The Commission reminds you that Dew for Congress, and you, in your official capacity as treasurer, appear to have violated 2 U.S.C. § 439a(b). The Committee should take steps to ensure that this activity does not occur in the future.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact J. Cameron Thurber, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Susan L. Lebeaux".

Susan L. Lebeaux  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

cc: Bill Dew

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS: Bill Dew**

**MUR: 6140**

**Bill Dew for Congress, and  
Mike McCauley, in his official capacity  
as treasurer**

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by Citizens for Responsibility and Ethics in Washington. See 2 U.S.C. § 437g(a)(1). For the reasons set forth below, the Commission dismissed the complaint alleging that Bill Dew, Bill Dew for Congress, and Mike McCauley, in his official capacity as treasurer ("Dew Committee"), violated 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g).

**II. DISCUSSION**

The complaint alleges that on August 25 and September 2, 2008, the Dew Committee spent a total of \$1,089.16 for clothing items at The Men's Wearhouse for the candidate's personal use, as reflected in its 2008 October Quarterly Report filed on October 15, 2008.

In its response, the Dew Committee states that after reviewing the issue with the candidate, although the "clothing purchase was a necessary campaign expenditure and for a specific campaign event," the expenditure violated the Act. It further states that Mr. Dew refunded the amount to the campaign and that it would be reflected in a future filing. The Dew Committee's 2009 April Quarterly Report discloses the refund as made on January 20, 2009.

2 U.S.C. § 439a(b)(1) states, "A contribution or donation described in sub-section (a) shall not be converted by any person to personal use." Sub-section (a) refers to "[a] contribution accepted by a candidate, and any other donation received by an individual as support for

1 activities of the individual as a holder of Federal office . . . ." The statute further states in sub-  
2 section (b)(2) that "a contribution or donation shall be considered to be converted to personal use  
3 if the contribution or amount is used to fulfill any commitment, obligation, or expense of a  
4 person that would exist irrespective of the candidate's election campaign or individual's duties as  
5 a holder of Federal office, including . . . (B) a clothing purchase . . . ." *See also* 11 C.F.R.  
6 § 113.1(g)(1)(i)(c) (use of campaign funds for the purchase of clothing, other than items of *de*  
7 *minimis* value that are used in the campaign, such as campaign "T-shirts" or caps with campaign  
8 slogans, constitutes personal use).

9 Mr. Dew used campaign funds from his authorized committee for clothing purchases,  
10 which were of more than *de minimis* value, in violation of the prohibition on personal use of  
11 campaign funds. 2 U.S.C. § 439a(b); 11 C.F.R. § 113.1(g). However, Mr. Dew reimbursed the  
12 Dew Committee upon learning of the alleged violations. Moreover, the alleged amount in  
13 violation is so low that it would not merit the further use of Commission resources to pursue this  
14 matter. *See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in*  
15 *the Enforcement Process*, 72 Fed. Reg. 12545, 12545-6 (Mar. 16, 2007).

16 Therefore, the Commission has exercised its prosecutorial discretion and decided to  
17 dismiss the complaint and close the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985).